IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No.3857 of 2004

Between:

P. Laxma Reddy, S/o. P.Pratap Reddy,
R/o. Kothlapur, Sangareddy Mandal, Medak District.

..... PETITIONER

AND

1.The Central Power Distribution Company of A.P. Limited, Singareni Bhavan, Khairatabad, Hyderabad rep., by its Chairman & Managing Director.
2.The Superintending Engineer[Operation Circle], C.P. Distribution Company of A.P. Limited, Sangareddy, Medak District.

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate writ or order or direction declaring the proceeding in Letter No. SE/OP/MDK/PO/Adm/D.No.2025/03 dated 12.12.2003 issued to the petitioner herein negativing his claim for appointment to the post of Sub-Engineer is illegal and arbitrary and consequently direct the respondents to consider and absorb the petitioner in post of Sub-Engineer.

Counsel for the Petitioner: Mr.DASARI VIJAYA KUMAR

Counsel for the Respondents: Mr.S.RAVINDRANATH, STANDING

COUNSEL FOR CPDCL.

The Court made the following :

ORAL ORDER:

The petitioner questions the order dated 12-12-2003 issued by second respondent rejecting his case for appointment as L.D.C. in the Central Power Distribution Company of Andhra Pradesh Ltd., on the following grounds:

"1.The qualifications possessed by you are not sufficient to consider your case for appointment as Sub-Engineer.

2.The service certificate furnished by you along with application form were sent to the Vigilance Cell of A.P. Transco/APCPDCL for verification to confirm the genuineness of service certificate and as per the report of Vigilance Cell of A.P. Transco/APCPDCL, the genuineness regarding your services with contractor could not be established due to lack of corroborating evidence."

It is the case of the petitioner that he worked as contract labourer in the respondent Company from 1-8-1996 to 30-12-1997. To the said effect, the contractor issued service certificate dated 15-1-1998, which was countersigned by the Additional Assistant Engineer, A.P. Transco. It is also stated that the petitioner is a qualified Mechanical Engineer. Therefore, as per B.P.Ms.No.36, dated 18-5-1997, he is entitled for absorption in the post of Sub-Engineer against 50% quota of the existing vacancies as on 18-5-1997. But, his case was not considered on the grounds that he does not possess requisite qualification for appointment as Sub-Engineer and that during the verification of the certificate by the Vigilance Cell, the genuineness of the service certificate could not be established due to lack of corroborating evidence.

The only question that arises for consideration in this writ petition is whether the service certificate issued by the contractor and countersigned by the official of the respondent Company is genuine and valid for considering the case of the

petitioner for appointment as Sub-Engineer?

Similar question was considered by this Court in W.P.No.17163 of 2002 and batch, disposed of on 24-12-2002, in which I have taken a view that the said opinion of the Vigilance Cell of the respondent Company is without any foundation. I have also taken a view that merely because the contractors have not produced the Attendance Registers, pay rolls, G.P.F. rolls etc., the contract labourers working under the contractors cannot be deprived of their right to be considered for absorption as per B.P.Ms.No.36, dated 18-5-1997. I have also observed that it is for the respondents to verify the certificates produced by the petitioners with reference to the agreements under which the contract labour were engaged by the contractors for the works awarded by the respondent Company. Therefore, the action of the respondents in rejecting the cases of the petitioners based on the report of the Vigilance Cell of the Company that due to lack of corroborative evidence, the service certificates cannot be treated as genuine, is illegal and unwarranted.

Similar proceedings dated 21-11-2002 was also questioned in W.P.No.4785 of 2003. While disposing of the said writ petition on 20-8-2003, the proceedings dated 21-11-2002 was set aside and the respondents were directed to consider the cases of the petitioners therein for absorption in suitable posts without reference to the objections raised in the said proceedings.

Having regard to the facts and circumstances of the case, the impugned proceedings dated 12-12-2003 is set aside. The writ petition is allowed directing the respondents to verify the service certificate issued by the contractor and countersigned by the official of the Company with reference to the agreement under which contract labour are engaged as on 18-5-1997 and consider the case of the petitioner for appointment as Sub-Engineer or in any other suitable post, as per his qualification and eligibility, in accordance with B.P.Ms.No.36, dated 18-5-1997 and pass appropriate orders in accordance with law within a period of two months from the date of receipt of a copy of this order. No order as to costs.

12th August 2004. **(V.ESWARAIAH, J.)**

ARS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Twelfth day of August Two Thousand and Four.

To

1. Chairman & Managing Director, Central Power Distribution Company of A.P. Limited, Singareni Bhavan, Khairatabad, Hyderabad.
2.The Superintending Engineer[Operation Circle], C.P. Distribution Company of A.P. Limited, Sangareddy, Medak District.

3. Two C.D. copies.